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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-936

13 **ELSA MONROE**
A.K.A. ELSA KURCZYN
1555 Lakeside Drive, Suite 120
Oakland, CA 94612

A C C U S A T I O N

14 **Registered Nurse License No. 637342**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about May 14, 2004, the Board of Registered Nursing issued Registered Nurse
23 License Number 637342 to Elsa Monroe, also known as Elsa Kurczyn (Respondent). The
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought
25 in this Accusation and will expire on June 30, 2013, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2750 of the Business and Professions Code (Code) provides, in relevant part,
3 that the Board may discipline any licensee, including a licensee holding a temporary or an
4 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
5 Nursing Practice Act.

6 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
7 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
8 licensee or to render a decision imposing discipline on the license. Under section 2811,
9 subdivision (b), of the Code, the Board may renew an expired license at any time within eight
10 years after the expiration. Under section 2811, subdivision (b), of the Code, the Board may
11 renew an expired license at any time within eight years after the expiration.

12 6. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
13 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
14 disciplinary action during the period within which the license may be renewed, restored, reissued
15 or reinstated.

16 **STATUTORY/REGULATORY PROVISIONS**

17 7. Section 2761 of the Code states, in relevant part:

18 "The board may take disciplinary action against a certified or licensed nurse or deny an
19 application for a certificate or license for any of the following:

20 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

21 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
22 functions."

23 8. California Code of Regulations, title 16, section 1443, states:

24 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the
25 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
26 exercised by a competent registered nurse as described in Section 1443.5."

27 ///

28 ///

1 **COST RECOVERY**

2 9. Section 125.3 provides, in relevant part:

3 “(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary
4 proceeding before any board within the department . . . upon request of the entity bringing the
5 proceedings, the administrative law judge may direct a licensee found to have committed a
6 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
7 investigation and enforcement of the case.

8 . . .

9 “(i) Nothing in this section shall preclude a board from including the recovery of the costs
10 of investigation and enforcement of a case in any stipulated settlement.”

11 **DRUGS**

12 10. “**Methadone**” is a Schedule II controlled substance as designated by Health and
13 Safety Code section 11055, subdivision (c)(14) and a dangerous drug under Business and
14 Professions Code section 4022.

15 **CAUSE FOR DISCIPLINARY ACTION**

16 (Unprofessional Conduct: Incompetence)
(Bus. & Prof. Code § 2761, subd. (a) and Cal. Code Regs., tit. 16, § 1443)

17 11. Respondent has subjected her Registered Nurse License to disciplinary action for
18 under Code section 2761, subdivision (a), and California Code of Regulations, title 16, section
19 1443 (Unprofessional Conduct: Incompetence), in that on February 18, 2011, while working as a
20 registered nurse at San Quentin State Prison (San Quentin), Respondent administered Methadone
21 to a patient without a physician’s order. The circumstances are described in more detail below.

22 12. The patient was transferred from San Francisco County Jail to San Quentin on
23 February 18, 2011. He had been receiving 110 mg of Methadone per day in San Francisco. On
24 February 18, 2011, the San Quentin treating physician ordered for the patient’s Methadone to be
25 tapered beginning in the morning of the following day, February 19, 2011. The dose for February
26 19, 2011, was to be a total of 80 mg (40 mg twice a day). Nonetheless, the patient received 40
27 mg Methadone at 3:00 p.m. on February 18, 2011, while being treated San Quentin’s triage area.

28 13. Respondent assumed care of the patient at approximately 4:45 p.m. on February

1 18, 2011. The patient soon began asking Respondent for a second dose of Methadone.
2 Respondent conferred with nursing colleagues who told her to wait six hours from the 3:00 p.m.
3 dose. At approximately 9:00 p.m., Respondent left a voice message for the ordering physician
4 stating that she needed "clarification" about the order and asking for "clearance" to give the
5 patient "his second dose of 40 mg." When Respondent did not receive a call back by 10:00 p.m.,
6 she administered 40 mg Methadone to the patient. Respondent never consulted with her
7 supervisor about administering Methadone to the patient.

8 14. Respondent informed the nurse who took over her shift about the Methadone
9 administration but she failed to make an entry in the Nursing Care Record about administering the
10 drug. On February 21, 2011, Respondent made a late entry in the Nursing Care Record regarding
11 her reasons for the Methadone administration.

12 **PRAYER**

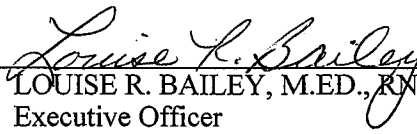
13 THEREFORE, Complainant requests that a hearing be held on the matters alleged in this
14 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

15 1. Revoking or suspending Registered Nurse License Number 637342, issued to Elsa
16 Monroe, also known as Elsa Kurczyn (Respondent);

17 2. Ordering Respondent to pay the Board of Registered Nursing the reasonable costs of
18 the investigation and enforcement of this case, pursuant to Business and Professions Code section
19 125.3; and

20 3. Taking such other and further action as deemed necessary and proper.

21 DATED: APRIL 19, 2013

22 
23 LOUISE R. BAILEY, M.ED., RN
24 Executive Officer
25 Board of Registered Nursing
26 Department of Consumer Affairs
27 State of California
28 Complainant

SF2012900913